IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-38 of 2026

[Lal Muhammad Solangi and another V. Federation of Pakistan and others]

Petitioners	:	Through Mr. Afaq Akhtar, Advocate.
Respondent No.2 and 10 to 14 *[official Respondents]*	:	Through Mr. Dawood Jan Mazari, Assistant Advocate General Sindh.
Respondent Nos.3 to 9 *[HESCO]*	:	Through Mr. Abdul Samee Soho, Advocate.
Respondent Nos.64 & 65.	:	M/s. Mushtaq A. Memon and Asif A. Memon, Advocates.
Respondent Nos.1 and 15 to 63 and proforma respondents 1 & 2.	:	Nemo.
Date of Hearing	:	**16.11.2026**
Date of Short Order	:	**16.11.2026**

J U D G M E N T

Abdul Hamid Bhurgri, J.- At the very outset, learned counsel for respondent Nos.64 and 65 raised an objection regarding the conduct of the petitioners and their counsel, submitting that the matter had previously been partly heard by another learned Single Bench, whereafter the petitioners engaged another advocate who had been declared not before the said Bench. The newly engaged counsel filed his *vakalatnama*, claiming to have superseded the previously engaged counsel, and obtained an adjournment. Learned counsel for the respondents also filed a statement, accompanied by a photograph purportedly taken on the relevant date, disputing the plea of indisposition advanced on behalf of the petitioners' counsel. However, at the present hearing, the previously engaged counsel appeared and sought to argue the matter, maintaining that his *vakalatnama* had never been formally discharged. Under Order III Rule 4(2), CPC, the appointment of a pleader continues until determined in accordance with law, with the leave of the Court. Since the earlier order merely recorded the statement regarding supersession, without expressly determining the appointment of the previously engaged counsel, the objection to his appearance solely on that ground cannot be sustained. Nevertheless, the sequence of events prima facie raises serious concerns regarding the bona fides of the petitioners and the propriety of the conduct complained

of, particularly as the circumstances suggest an attempt to avoid further proceedings before the Bench which had already partly heard the matter. Such practices, if established, would constitute an abuse of the process of the Court and cannot be countenanced. However, without affording the counsel concerned an opportunity of explanation, no conclusive adverse finding is being recorded against him. The petitioners and their counsel are, therefore, cautioned to observe the standards of candour, fairness and professional propriety expected in judicial proceedings. Notwithstanding this objection, learned counsel for the petitioners was permitted to address the Court, and the petition is being examined independently on its merits.

2. Through this constitutional petition, the petitioners have challenged the order dated 23.12.2025 passed by the learned Additional District Judge-I, Sujawal, in Civil Revision Application No.07 of 2025, whereby the revision preferred against the order dated 21.10.2025 passed by the learned 1st Senior Civil Judge, Sujawal, was dismissed. By the latter order, the learned trial Court had dismissed the petitioners' applications filed in Civil Suit No.11 of 2015, titled Shahnawaz and another v. Federation of Pakistan and others, namely, an application under Section 12(2), read with Section 151, CPC, seeking to set aside the judgment and decree dated 18.10.2022 on allegations of fraud, misrepresentation, collusion and concealment of material facts; an application under Order XVIII Rule 18, read with Section 151, CPC; and an application under Order XXXIX Rules 1 and 2, read with Section 151, CPC, seeking interim injunctive relief.

3. Briefly stated, the petitioners claim to be residents of Village Gul Muhammad Solangi, District Sujawal, comprising approximately 178 houses with a population of about 2,000 persons. According to them, they and their predecessors have been residing there for the last 60 to 70 years and have inherited their residential houses from their ancestors. They assert that the then Deputy Commissioner, Thatta, issued *sanads* in favour of their predecessors and that their names were recorded in Form-II of the revenue record. They further claim that the village has been provided with civic facilities, including electricity and a school, which, according to them, establish its longstanding existence.

4. The controversy arose when respondent Nos.64 and 65 instituted Civil Suit No.11 of 2015, asserting ownership over the subject

land. The suit was decreed by the learned 1st Senior Civil Judge, Sujawal, through judgment and decree dated 18.10.2022. The petitioners maintain that, although they were in possession of the land and were directly affected by the decree, they were neither impleaded as parties nor afforded an opportunity of hearing. They allege that the decree was obtained in collusion with certain defendants through concealment of their possession and the existence of the village. Subsequently, execution proceedings were initiated, and an order for delivery of possession was passed on 19.07.2025. According to the petitioners, they first acquired knowledge of the decree on 13.08.2025, when the Nazir/Bailiff, accompanied by the concerned officials, visited the village for execution. They thereafter filed the aforesaid applications, which were dismissed by the learned trial Court on 21.10.2025. Their Civil Revision Application No.07 of 2025 was also dismissed on 23.12.2025, resulting in the present proceedings.

5. Learned counsel for the petitioners contended that the petitioners and their predecessors have been in longstanding possession of the subject land as occupants and tenants and that the existence of Village Gul Muhammad Solangi is supported by the alleged *sanads*, revenue entries and provision of electricity. He argued that respondent Nos.64 and 65 deliberately omitted to implead the actual occupants of the land and obtained the decree through fraud, misrepresentation and concealment of material facts. According to learned counsel, the Courts below failed to appreciate the allegations raised in the application under Section 12(2), CPC, and dismissed it without framing issues or recording evidence. He maintained that, where allegations of fraud and misrepresentation involve disputed questions of fact, an inquiry through framing of issues and recording of evidence is necessary. He, therefore, prayed that the impugned orders be set aside.

6. Conversely, learned counsel for respondent Nos.64 and 65 supported the concurrent orders of the Courts below and submitted that the petitioners had failed to produce any document establishing ownership, tenancy, lawful occupation or any other legally recognizable interest in the subject land. According to learned counsel, respondent Nos.64 and 65 are the lawful owners of the property, and their title is supported by the relevant revenue record, including Deh Form-VII and entries in the record of rights. He further submitted that the *sanads* relied upon by the petitioners do not bear their names and that even the

sanads issued in favour of other persons had already been cancelled by the competent revenue authority, namely, the Deputy Commissioner, Thatta, through order dated 02.09.1987, which was subsequently upheld by the Additional Commissioner-II, Hyderabad, on 17.04.2014. Thus, according to learned counsel, the petitioners cannot derive any right or entitlement from documents which neither relate to them nor retain legal efficacy.

7. Learned counsel further submitted that the petitioners' reliance upon the alleged provision of electricity was equally misconceived. In this regard, respondent Nos.64 and 65 had instituted separate constitutional proceedings concerning the electricity connections, wherein HESCO acknowledged that the electricity connections had been provided irregularly and were subsequently disconnected. Learned counsel referred to the comments submitted by HESCO in support of this position. He argued that the petitioners had failed to establish any element of fraud, misrepresentation or want of jurisdiction in obtaining the decree and that mere non-impleadment of persons claiming occupation, without proof of an enforceable interest, does not render a decree fraudulent. He further submitted that framing of issues and recording of evidence are not mandatory in every application under Section 12(2), CPC, particularly where the allegations are unsupported by any prima facie material and the application can be decided on the existing record. On the question of locus standi and the limited scope of constitutional jurisdiction, learned counsel relied upon Raja Muhammad Nadeem v. The State and another (PLD 2020 SC 282), Mian Irfan Bashir v. Deputy Commissioner, Lahore and others (PLD 2021 SC 571), Dr. Imran Khattak and another v. Ms. Sofia Waqar Khattak and others (2014 SCMR 122), Abdullah Jumani and others v. Province of Sindh and others (2024 SCMR 1258), and Hafsa Habib Qureshi and others v. Amir Hamza and others (PLD 2024 SC 780). He prayed for dismissal of the petition.

8. Learned Assistant Advocate General Sindh supported the submissions advanced on behalf of respondent Nos.64 and 65 and confirmed that the *sanads* relied upon in relation to the subject land had been cancelled by the competent revenue authorities and that the cancellation was maintained in the departmental appellate proceedings. He submitted that the petitioners had failed to establish any lawful entitlement warranting interference with the decree.

9. Learned counsel representing HESCO also supported the submissions advanced on behalf of the contesting respondents and referred to the position taken by HESCO in its comments regarding the electricity connections. He maintained that the alleged provision of electricity did not establish any proprietary or possessory entitlement in favour of the petitioners.

10. I have heard learned counsel for the parties, considered their respective submissions and examined the material available on record. The principal question requiring determination is whether the petitioners have disclosed any legally sustainable ground under Section 12(2), CPC, for setting aside the judgment and decree dated 18.10.2022 and whether the Courts below committed any jurisdictional error or material illegality in dismissing their applications without framing issues and recording evidence.

11. Section 12(2), CPC, provides a specific remedy for questioning the validity of a judgment, decree or order on the grounds of fraud, misrepresentation or want of jurisdiction. The jurisdiction conferred by this provision is not intended to provide an additional appeal against a concluded judgment or to permit reopening of litigation merely because a person disputes its consequences. A party invoking the provision must plead specific facts constituting one or more of the statutory grounds and place sufficient material before the Court to justify an inquiry. The mere use of expressions such as fraud, collusion, misrepresentation or concealment, without disclosing the particulars of the alleged wrongdoing and its material bearing upon the decree, does not satisfy the statutory requirement. The principle is also consistent with Order VI Rule 4, CPC, which requires particulars of fraud and misrepresentation to be specifically pleaded[1].

12. It is equally important to distinguish between the right to invoke Section 12(2), CPC, and the right to obtain relief thereunder. A person who was not a party to the original proceedings is not, merely for that reason, precluded from questioning a decree where it is shown that his independent legal rights have been prejudicially affected through fraud, misrepresentation or want of jurisdiction. However, such person must establish a sufficient legal interest in the subject matter and

[1] ***Messrs Dadabhoy Cement Industries Ltd. v. National Development Finance Corporation (PLD 2002 SC 500)***.

demonstrate, through specific allegations supported by relevant material, how the decree was procured by any of the statutory vitiating circumstances. Non-impleadment, by itself, does not establish fraud, nor does it automatically invalidate a decree passed between the parties to the suit.

13. Examining the petitioners' case against these principles, it is evident that the entire foundation of their application rests upon the assertion that they and their predecessors have been occupying the subject land for several decades and that the land constitutes an established village. However, no document has been shown establishing that either petitioner holds any title, tenancy, allotment, lease, *sanad* or other legally recognizable right in the property. The petitioners have also failed to identify any specific entry in the revenue record conferring a right upon them in respect of the land covered by the decree. Their claim of inherited occupation remains unsupported by any reliable material establishing the nature, extent or legal basis of their alleged possession. Indeed, the petitioners' own description of their status as tenants is not supported by any tenancy agreement, rent record, acknowledgment by the recorded owners or other material capable of establishing the alleged relationship. The assertion of longstanding residence, however emphatically made, cannot, without more, be treated as proof of a legal entitlement capable of impeaching a judicial decree.

14. The reliance placed upon the alleged *sanads* is equally unavailing. The petitioners' names do not appear in the *sanads* upon which they seek to rely. No document establishing succession to, or lawful derivation of rights from, the persons named therein has been produced. More importantly, the *sanads* relating to the subject land were cancelled by the Deputy Commissioner, Thatta, through order dated 02.09.1987, and the cancellation was upheld by the Additional Commissioner-II, Hyderabad, through order dated 17.04.2014. No subsequent order setting aside or suspending those decisions has been brought to the notice of this Court. The petitioners cannot, therefore, claim an enforceable entitlement on the strength of *sanads* which neither stand in their names nor remain operative in the revenue record. Unless the orders of cancellation are set aside by a competent forum, they cannot be disregarded in collateral proceedings under Section 12(2), CPC. The material placed before the Court thus fails to establish any subsisting right of the petitioners derived from the said *sanads*.

15. The petitioners have also relied upon the alleged provision of electricity and other civic facilities to support their claim that Village Gul Muhammad Solangi is an established settlement. This contention does not advance their case. The record referred to by the contesting respondents indicates that the provision of electricity had itself been questioned in separate proceedings and that HESCO acknowledged the irregular provision of the connections and their subsequent disconnection. The position has also been supported by learned counsel representing HESCO in the present proceedings. In any event, the existence of electricity connections, a school or other civic facilities cannot, by itself, create or establish title, tenancy or any other proprietary interest in land. Such facilities may indicate the existence of habitation, but they do not determine the legal character of occupation or confer a right to defeat the title of the recorded owners. Even assuming that a settlement exists at the site, that circumstance alone would not establish that the decree was obtained through fraud or misrepresentation.

16. The petitioners' allegation of fraud and collusion also remains wholly unsubstantiated. Beyond asserting that they were not impleaded in the suit and that certain defendants did not effectively contest the proceedings, the petitioners have failed to identify any specific fraudulent representation made to the trial Court, any material document fabricated or suppressed, or any act of collusion which demonstrably influenced the judgment and decree dated 18.10.2022. The fact that a suit was not contested with the degree of vigour subsequently expected by third persons does not, without supporting material, establish collusion. Likewise, non-impleadment of persons whose independent legal interest in the property has not been prima facie established cannot, by itself, constitute fraud upon the Court. It is not enough to allege that a decree adversely affects the petitioners; they must show that its procurement was vitiated by one of the grounds expressly contemplated under Section 12(2), CPC. No such foundation has been laid in the present case.

17. The contention that the learned trial Court was legally bound to frame issues and record evidence before deciding the application under Section 12(2), CPC, is also misconceived. The law does not prescribe an inflexible procedure requiring a full-fledged trial in every

application under the said provision. Where specific allegations of fraud or misrepresentation raise genuine and material disputed questions of fact which cannot be satisfactorily resolved on the existing record, the Court may frame issues and record evidence. However, where the application discloses no prima facie case, the allegations are vague or unsupported, or the controversy can be determined from the available record, the Court is competent to dispose of the application without undertaking such an exercise. The Honourable Supreme Court has recognized that framing of issues and recording of evidence are not mandatory in every proceeding under Section 12(2), CPC, and that the procedure to be adopted depends upon the nature of the allegations and the requirements of justice[2].

18. Applying the aforesaid principles, I find that the petitioners failed to place before the learned trial Court any prima facie material establishing their independent legal interest in the suit property or disclosing specific acts of fraud, misrepresentation or collusion in obtaining the decree. The mere possibility that evidence might be led in support of general allegations does not oblige a Court to commence a roving inquiry, particularly where the documents relied upon by the applicants do not establish the asserted entitlement and the relevant *sanads* have already been cancelled by competent authorities. Framing of issues in such circumstances would serve no useful purpose and would unnecessarily prolong litigation which has already culminated in a decree. The learned trial Court, therefore, committed no illegality in deciding the application on the basis of the available record, and the revisional Court was justified in declining to interfere with that determination.

19. The petitioners' reliance upon Article 10-A of the Constitution is also misplaced in the circumstances of the present case. The constitutional guarantee of fair trial and due process undoubtedly extends to proceedings affecting civil rights and obligations; however, it does not dispense with the requirement that a person seeking to challenge a concluded decree must first disclose a legally recognizable interest and a sustainable ground for interference. The petitioners were afforded an opportunity to present their case through the application

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[2] ***Hafiz Malik Kamran Akbar and others v. Muhammad Shafi (deceased) through legal heirs and others (PLD 2024 SC 262); Warriach Zarai Corporation v. F.M.C. United (Pvt.) Ltd. (2006 SCMR 531); Amiran Bibi and others v. Muhammad Ramzan and others (1999 SCMR 1334); Amina Bibi v. Nasrullah and others (2000 SCMR 296).***

under Section 12(2), CPC, and thereafter availed the revisional remedy. Their applications were considered and decided by the competent Courts. The mere fact that the decisions were adverse to them does not establish denial of due process. Nor does Article 10-A require the recording of evidence in every proceeding irrespective of the sufficiency of the pleadings and material available on record.

20. There is yet another aspect of the matter. The petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution against concurrent orders of the learned trial Court and the revisional Court. Such jurisdiction is supervisory and corrective in nature and cannot ordinarily be exercised as a further appellate forum for reassessment of factual controversies. Interference is justified where the impugned orders suffer from want or excess of jurisdiction, patent illegality, material irregularity, misreading or non-reading of material evidence resulting in a miscarriage of justice, or violation of a mandatory legal provision. No such defect has been demonstrated in the present case. The learned trial Court examined the petitioners' application in the light of the material placed before it, and the revisional Court maintained its determination. This Court cannot substitute its own opinion merely because the petitioners seek a different appreciation of their unsubstantiated assertions.

21. The authorities relied upon by learned counsel for respondent Nos.64 and 65 regarding the requirement of an aggrieved person under Article 199 of the Constitution also reinforce the proposition that constitutional jurisdiction cannot be invoked to vindicate an abstract or unestablished claim. In ***Raja Muhammad Nadeem v. The State and another (PLD 2020 SC 282)*** and ***Mian Irfan Bashir v. Deputy Commissioner, Lahore and others (PLD 2021 SC 571)***, the Honourable Supreme Court considered the requirement of a legally cognizable grievance for invoking constitutional jurisdiction. The decisions in ***Dr. Imran Khattak and another v. Ms. Sofia Waqar Khattak and others (2014 SCMR 122)***, ***Abdullah Jumani and others v. Province of Sindh and others (2024 SCMR 1258)***, and ***Hafsa Habib Qureshi and others v. Amir Hamza and others (PLD 2024 SC 780)*** were also cited to emphasize the limitations upon the exercise of jurisdiction under Article 199. However, the present petition is being determined principally upon the failure of the petitioners to establish a prima facie legal interest in the subject property or any statutory ground

warranting interference under Section 12(2), CPC, rather than upon any absolute proposition that a non-party to a decree can never seek relief against it.

22. It may also be clarified that the observations made herein are confined to the legality of the impugned orders and the petitioners' failure to establish grounds for setting aside the decree under Section 12(2), CPC. The existence of a village, even if assumed, does not by itself establish proprietary or possessory rights, nor does it invalidate a decree obtained by persons whose claim of title was adjudicated in the original proceedings. The petitioners have failed to demonstrate that the decree was obtained by fraud, misrepresentation or want of jurisdiction. Consequently, the dismissal of their application under Section 12(2), CPC, as well as the ancillary applications under Order XVIII Rule 18 and Order XXXIX Rules 1 and 2, CPC, does not call for interference.

23. For the foregoing reasons, I find that the petitioners have failed to establish any legally recognizable interest in the suit property or substantiate their allegations of fraud, misrepresentation or want of jurisdiction so as to warrant interference under Section 12(2), CPC. The concurrent findings of the learned trial Court and the revisional Court suffer from no jurisdictional defect, patent illegality or material irregularity calling for interference in the constitutional jurisdiction of this Court under Article 199 of the Constitution. Consequently, this constitutional petition, along with all pending applications, was dismissed through a short order dated 16.11.2026. The foregoing are the reasons for the said short order.

JUDGE

Karachi
Dated: 19.11.2026

Approved for reporting

Ayaz Gul